



FRENCH TAX NEWS

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## Autumn 2022 newsletter: draft finance law for 2023, the main measures planned and other tax news in autumn 2022

In a complex economic environment marked by both the health care crisis and the Ukraine crisis, with inflation and energy prices rising sharply, the government has announced the contents of the draft budget law for 2023. The draft contains, among other things, a reassessment of the income tax rate, the retention of the price tag and the abolition of the CVAE.

As it does every time at the end of September, the government has presented its draft budget law for the coming year. The draft is characterised by the fight against inflation. The most important planned measures at a glance.

However, we would like to point out that these measures may still be amended or cancelled in the final Finance Bill for 2023, which will be published early next year.

### 1. Retention of the tariff shield

Since October 2021, a tariff shield has ensured that electricity price increases are limited to 4% and gas prices are frozen. The draft budget law provides that this shield will be maintained in 2023, but according to a new formula. Thus, the price increase would be capped at 15% for gas from January 2023 and for electricity from February 2023. A limited increase for both individuals and small businesses (turnover below €2 million and less than 10 employees).

Note: The financing of this measure will be partly ensured by a compulsory levy on energy suppliers.

### 2. Reassessment of the income tax scale

Another important measure is that the income tax rate brackets will be adjusted for inflation (excluding tobacco) in 2022, which corresponds to a 5.4% revaluation. The tax scale applicable in 2023 will thus be as follows:

## *Income taxation 2022*

Fraction of taxable income (one share) Tax rate:

Up to 10 777 € : 0

From € 10, 778 to € 27, 478: € 11 %.

From € 27, 479 to € 78, 570: 30 %.

From € 78,571 to € 168,994 : 41 %.

Above € 168,994: 45 %.

### 3. Abolition of the CVAE

It is foreseen that the levy on the added value of enterprises (CVAE) will be reduced by half in 2023 before being completely abolished in 2024.

As a reminder, the CVAE is one of the two components of the territorial economic levy (CET), along with the cotisation foncière des entreprises (CFE).

Accordingly, the ceiling for the CET, currently 2% of value added, will be reduced to 1.625% in 2023 and become a ceiling only for the CFE in 2024 with the rate reduced to 1.25%.

### 4. VAT group: option available until 31 October 2022!

From 2023, businesses that are closely linked by financial, economic and organisational ties can form a VAT group for the first time, if they choose to do so. For this scheme until 31 October 2022.

### 5. Non-profit organisation: what about the profit motive?

An association that competes with a commercial enterprise by carrying out its activities under similar conditions cannot be recognised as a non-profit organisation that can issue tax receipts to its donors.

### 6. Tax exemption in ZFU: you really have to be resident there!

Businesses and practices located in an urban free zone (ZFU) can obtain a temporary tax exemption on their profits if, among other things, they are actually located there.

### 7. New measures to promote purchasing power

The high inflation that France has been experiencing for several months has led the government to adopt a package of measures over the summer to support the purchasing power of the French. Among the measures introduced are fuel rebates, rent caps, value

sharing premiums and the buyback of RTT days. Here is an overview of the most important of these measures:

### *The retention of the fare tag*

The price tag, an emblematic measure introduced late last year in response to the rise in energy prices, will be retained until the end of 2022. As a reminder, it consists of limiting the increase in residential electricity bills to 4% and freezing gas prices at October 2021 levels.

The good news is that the government has announced that the price tag will be extended until 2023 and the increase in gas and electricity prices will be capped at 15% for both individuals and companies with less than 10 employees.

### *The development of the fuel rebate*

In order to limit the sharp increase in fuel prices, which affects private individuals but also professionals such as farmers, fishermen, hauliers, builders and taxis, the State granted a special aid of 15 eurocents before tax per litre (18 eurocents including tax) on the purchase of fuel from 1 April to 31 August.

In September and October, this subsidy was increased to 30 eurocents including tax (25 eurocents excluding tax) in the mainland, 28.25 eurocents including tax in Corsica and 25 eurocents including tax in the overseas territories.

In November and December it will be only 10 eurocents incl. taxes (8.33 eurocents without taxes) in the motherland, 9.42 eurocents incl. taxes in Corsica and 8.33 eurocents incl. taxes overseas.

Nothing has been decided yet for 2023...

As a reminder, this aid concerns all fuels, i.e. diesel (B0, B7, B10, B30, B100 and XTL), diesel for other purposes (GNR), petrol (SP95, SP98-E5, SP95-E10), liquefied petroleum gas (LPG), natural gas for vehicles (NGV), superethanol E85 and diesel-ethanol ED95, with the exception of aviation fuels and combustibles, and all target groups.

### *The cap on rent increase.*

The government also intended to protect businesses, especially from significant rent increases that they would inevitably face due to inflation.

Thus, the increase in the index for commercial rents (ILC), on the basis of which the rents of many businesses are indexed, is to be capped at 3.5% for one year (i.e. from the publication of the index for the second quarter of 2022 at the end of September 2022 until the publication of the index for the first quarter of 2023). Landlords can therefore continue to index commercial rents using the commercial rent index, but the change in this index over one year may not exceed 3.5%.

Note: This measure only applies to small and medium-sized enterprises, i.e. companies that employ fewer than 250 people and whose annual turnover does not exceed €50 million or whose balance sheet total does not exceed €43 million.

Similarly, for individuals, the increase in residential rents will be limited to 3.5% (2 to 3.5% in Corsica and 2.5% overseas) until 30 June 2023 (reference index for rents from Q3 2022 to Q2 2023), as the government has limited the change in the reference index for rents (IRL) to this percentage for one year.

### *The end of the television licence fee*

From this year, the television licence fee will be abolished for both individuals and traders. Its amount in 2021 was €138 (for individuals and in the general case for traders with up to two workplaces).

In practice, most traders who have to pay TV licence fees for 2022 have registered and paid them in spring. The amount paid is automatically refunded to them by transferring it to the company's bank account no later than October 2022. The DGFP can offset the refund of the TV licence fees against the amount that companies still owe for other taxes that have not been paid by the due date.

### *A reduction in personal social security contributions*

Self-employed persons (craftsmen, traders, farmers and freelancers) with low incomes will benefit from a reduction in contributions to health and maternity insurance from the contributions due for 2022.

The amount of this reduction in contributions has yet to be determined by decree. According to the government, it would amount to € 550 per year for self-employed persons with a professional income up to smic.

8th PGE "Resilience" is extended until the end of the year.

As planned, companies affected by the war in Ukraine can take out a state-guaranteed loan, the so-called "resilience" loan, until 31 December 2022.

Introduced a few months ago to support businesses affected by the economic consequences of the conflict in Ukraine, the "resilience" GEP is a variant of the GEP introduced in the context of the Covid 19 health crisis. Originally, the loan was due to expire on 30 June 2022. However, as the war is still ongoing, it is being extended by six months. Eligible companies can therefore take out such a loan until 31 December 2022.

Note: The conventional EGP was not extended. It expired on 30 June 2022.

The PGE "Resilience" allows affected enterprises to borrow up to 15% of their average annual turnover of the last three financial years with a government guarantee. This is in addition to any previously subscribed classical PGE.

The repayment and redemption rules for a PGE "Resilience" are the same as for a classical PGE: term of maximum 6 years, no repayment in the first year of the loan, same guaranteed rate.

## 9. Gas and electricity subsidy: the deadline for application is extended.

Companies that consume a lot of gas and electricity can apply for aid until 31 December 2022 to compensate for the extra costs they incur.

A few months ago, a state financial aid was introduced for companies that consume a lot of gas and electricity and are therefore strongly affected by the higher energy prices caused by the war in Ukraine. This aid, which has been available for application since 4 July, is intended to compensate for the additional gas and electricity costs incurred by these companies.

Specifically, the aid, which is open to all sectors of the economy and irrespective of the size of the company, is aimed at companies:

- whose gas and/or electricity purchases accounted for at least 3% of their turnover in 2021;
- and which, in the quarterly period March-April-May 2022 and/or June-July-August 2022, suffered a doubling of the price for the purchase of electricity and/or gas compared to an average price in 2021.

As recently announced by the Minister of Economy and Finance, the deadline for submitting applications for the periods March-May 2022 and June-August 2022 has now been officially extended to 31 December 2022. This postponement is intended to give the companies concerned the opportunity to compile all the necessary documents and have them certified by the auditing or accounting firm.

In view of the current tensions in the gas and electricity markets, the Minister of Economy and Finance recently announced that the "gas and electricity" aid would be extended.

Thus, the aid, which was originally intended to cover the additional costs of gas and electricity expenditure incurred in the period from 1 March to 31 August 2022, should be extended for the period until 31 December 2022.

In addition, the conditions for granting the aid could be simplified to allow more companies to receive the aid. In particular, the current condition for certain companies to suffer a decrease in their gross operating surplus (EBITDA) of at least 30% compared to 2021 could be abolished. As a result, a simple decrease in EBITDA should be sufficient to qualify for the aid. To be continued...

## 10. Amortisation of goodwill

For simplification purposes, in the separate financial statements, small companies defined in Article L 123-16 CC (companies that meet two of the following three criteria: CA ≤ 12 M€,

balance sheet total  $\leq 6$  M€, number of employees  $\leq 50$ ) may amortise all their capitalised goodwill over 10 years for financial years starting since 1 January 2016.

However, for tax purposes, amortisation of goodwill is not allowed as a deduction (Article 39-1-2° of the CGI).

However, by way of derogation from this principle, the amortisation of goodwill recorded in the companies' accounts is deductible if acquired between 1 January 2022 and 31 December 2025.

## 11. Businesses: Turn off your neon signs at night and close your doors!

Regulations now require business owners to turn off their neon signs and advertisements between 1am and 6am and to keep their doors closed when the premises are heated or air-conditioned, under penalty of a fine.

For energy conservation reasons, retailers must now comply with two new obligations that come with penalties.

### Turning off advertisements and neon signs at night

In cities with less than 800,000 inhabitants, it has already been forbidden for several years to leave advertisements and neon signs on at night between 1 am and 6 am. Exceptions are advertisements at airports and those carried by street furniture, provided they are still images. In municipalities with more than 800 000 inhabitants, the switch-off rules are laid down in a local advertising ordinance.

Since 7 October, these rules apply to all municipalities.

And from 1 June 2023, only advertisements and neon signs attached to airports or supported by street furniture intended for transport services and during the operating hours of these services will be allowed at night between 1am and 6am.

**Note:** A Business who does not comply with this ban after receiving a warning commits a 5th class misdemeanour punishable by a fine of up to €1 500 (instead of the previous €750).

### Closing the doors of heated or air-conditioned rooms

Another obligation that has just been enacted is that operators of premises in which market or non-market activities are carried out, i.e. in particular shops and offices, must in future keep their doors leading to the outside closed, even during opening hours for users, if these premises are heated or cooled with the help of air conditioning.

In addition, these rooms must be equipped with manual or automatic closing systems that limit heat loss.

However, this measure does not prohibit the rooms from being ventilated if the renewal of indoor air is necessary for health reasons.

**Attention:** Sanctions for non-compliance with this prohibition are also provided for here, namely an administrative fine of up to €750 imposed by the mayor of the municipality concerned after an unsuccessful reminder.

Decree no. 2022-1294 of 5 October 2022, OJ of 6 October 2022 (illuminated advertising)  
Decree no. 2022-1295 of 5 October 2022, OJ of 6 October 2022 (closing of openings).

*For further information on these topics, please do not hesitate to contact us.*

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